

BURSOR & FISHER, P.A.

L. Timothy Fisher (State Bar No. 191626)

Joel D. Smith (State Bar No. 244902)

1990 North California Blvd., Suite 940

Walnut Creek, CA 94596

Telephone: (925) 300-4455

Facsimile: (925) 407-2700

E-Mail: ltfisher@bursor.com

jsmith@bursor.com

BURSOR & FISHER, P.A.

Scott A. Bursor (State Bar No. 276006)

888 Seventh Avenue

New York, NY 10019

Telephone: (212) 989-9113

Facsimile: (212) 989-9163

E-Mail: scott@bursor.com

Counsel for Plaintiffs

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

PATRICK QUIROZ, DOMINIQUE
MIRZA, and LOUISE CRESPO, on
behalf of themselves and all others
similarly situated,

Plaintiffs,

v.

SABATINO TRUFFLES NEW YORK,
LLC and SABATINO NORTH
AMERICA, LLC,

Defendants.

Case No. 8:17-cv-00783-DOC-KES

**DECLARATION OF L. TIMOTHY
FISHER IN SUPPORT OF
PLAINTIFFS' MOTION TO
QUASH**

Date: January 29, 2018

Time: 8:30 a.m.

Ctrm: 9D

Judge: Hon. David O. Carter

1 I, L. Timothy Fisher, declare as follows:

2 1. I am an attorney licensed to practice in the State of California, and a
3 partner at Bursor & Fisher, P.A., counsel of record for Plaintiffs Patrick Quiroz,
4 Dominique Mirza, and Louise Crespo (“Plaintiffs”). I make this declaration in
5 support of Plaintiffs’ Motion to Quash Subpoena Addresses to NSF International
6 AuthenTechnologies. I have personal knowledge of the facts set forth in this
7 declaration, and, if called as a witness, could and would competently testify thereto
8 under oath.

9 2. Attached hereto as **Exhibit A** is a true and correct copy of Defendants’
10 December 1, 2017 Subpoena for Production of Documents to NSF International
11 AuthenTechnologies.

12 3. I declare under penalty of perjury under the laws of the United States
13 and State of California that the foregoing is true and correct. Executed on December
14 11, 2017 at Walnut Creek, California.

15
16 /s/ L. Timothy Fisher
17 L. Timothy Fisher
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT A

UNITED STATES DISTRICT COURT

for the

CENTRAL DISTRICT OF CALIFORNIA

PATRICK QUIROZ, DOMINIQUE MIRZA, and
LOUISE CRESPO, on behalf of themselves and all
others similarly situated

Plaintiff

v.

SABATINO TRUFFLES NEW YORK, LLC and
SABATINO NORTH AMERICA, LLC,

Defendant

Civil Action No. 8:17-cv-00783-DOC-KES

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**

To: NSF INTERNATIONAL AUTHENTECHNOLOGIES

1341 Redwood Way Petaluma, California 94954

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

SEE ATTACHMENT A

Place: Sidley Austin LLP 555 West Fifth Street, Suite 4000 Los Angeles, CA 90013	Date and Time: December 15, 2017 9:00 a.m.
--	--

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
--------	----------------

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: December 1, 2017

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Alexis Miller Buese

Attorney's signature

Alexis Miller Buese

The name, address, e-mail address, and telephone number of the attorney representing (name of party) Defendant
SABATINO NORTH AMERICA, LLC, who issues or requests this subpoena, are:
Alexis Miller Buese, alexis.buese@sidley.com, SIDLEY AUSTIN LLP, 555 W. Fifth Street, Ste. 4000, Los Angeles, CA
90013; (213) 896-6000

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).



ATTACHMENT A

DEFINITIONS

For the purposes of these requests for production of documents, the following terms shall have the following defined meanings:

1. “PLAINTIFFS” means Plaintiffs Patrick Quiroz, Dominique Mirza, and Louise Crespo in the above captioned action, their agents, attorneys, and anyone acting on their behalf, including the law firm of Bursor & Fisher, P.A.
2. “YOU” and “YOUR” means NSF International AuthenTechnologies, as well as its officers, directors, employees, partners, corporate parent, subsidiaries, or affiliates.
3. “DOCUMENT” or “DOCUMENTS” includes any writings, memoranda, correspondence, drawings, graphs, charges, photographs, electronic recordings, electronic transmissions, and other data compilation from which information can be obtained, and any other items, documents or tangible things as defined in Rule 34 of the Federal Rules of Civil Procedure. The term is specifically intended to include email communications and other electronically stored information.
4. “TESTING” means any testing by NSF International AuthenTechnologies of any sample of Sabatino truffle oil product, including but not limited to the Sabatino White Truffle Oil and the Sabatino Black Truffle oil for the law firm Bursor & Fisher, P.A.

INSTRUCTIONS

1. Use of the singular includes the plural and vice versa; the word “any” means “any and all”; the word “including” means “including without limitation.”
2. The words “and,” “and/or” and “or” shall each be deemed to refer to both the conjunctive and disjunctive.
3. In the event that YOU seek to withhold any DOCUMENT on the basis that it is entitled to some privilege or other limitation on the scope of permitted discovery, please supply Sabatino Truffles New York, LLC and Sabatino North America, LLC’s counsel with a numerical log or other listing of all DOCUMENTS for which such a privilege or limitation is claimed, indicating:
 - a. The name of each author, writer, sender, or initiator of such DOCUMENT, if any;

- b. The name of each recipient, addressee, or party for whom such DOCUMENT was intended, if any;
 - c. The date of such DOCUMENT, if any, or an estimate thereof and so indicate as an estimate if no date appears on said DOCUMENT;
 - d. The general subject matter as described on such DOCUMENT, or, if no such description appears, then such other description sufficient to identify said DOCUMENT; and
 - e. The claimed grounds for withholding said DOCUMENT from production (e.g., “attorney-client privilege”).
4. Each and every non-identical copy of a DOCUMENT, whether different from the original because of stamps, indications of the recipient(s), handwritten notes, marks, attachments, or any other reason, is a separate DOCUMENT that must be produced.
5. In responding to the Requests that follow, furnish all DOCUMENTS that are within YOUR possession, custody or control including DOCUMENTS in the possession, custody or control of YOUR representatives, employees, investigators, attorneys, or other agents.
6. Any DOCUMENT that was generated or created by use of a spreadsheet program, e.g., Microsoft Excel or Lotus 1-2-3, should be produced in native format. For any other electronically-stored information produced in response to these Requests, you are requested to produce copies in text-searchable TIFF format with a database load file.
7. All DOCUMENTS produced should have a legible, unique page identifier (“Bates Number”) in the bottom right corner and confidentiality legend (where applicable). Each TIFF file shall be named with Bates Number of the produced document’s page to which the image file relates.
8. DOCUMENTS shall be delivered via secured server, email, or thumb drive and may subsequently followed by CDs, DVDs, or external drives upon request by the receiving party. Productions will be encrypted, and the producing party shall provide instructions on how to decrypt the files in an email separate from the production. Production media shall include the case caption, production volume, date, and bates number range.

REQUESTS FOR PRODUCTION

1. Any sample form submitted for TESTING.
2. Any contract for TESTING.
3. The data sheets resulting from the TESTING.
4. Any Certificate of Analysis for the TESTING given to Bursor & Fisher, P.A.
5. All emails or written communications between YOU and Bursor & Fisher, P.A. regarding the TESTING.
6. All DOCUMENTS sufficient to show payment from Bursor & Fisher, P.A. for the TESTING.

CERTIFICATE OF SERVICE

I hereby certify that on December 1, 2017, I caused true and correct copies of the foregoing **DEFENDANT SABATINO NORTH AMERICA, LLC'S SUBPOENA FOR DEPOSITION AND PRODUCTION OF DOCUMENTS TO NSF INTERNATIONAL AUTHENTECHNOLOGIES** to be served upon all counsel of record via electronic mail as follows:

L. Timothy Fisher Joel D. Smith Bursor & Fisher, P.A. 1990 North California Blvd., Ste. 940 Walnut Creek, CA 94596 ltfisher@bursor.com jsmith@bursor.com Scott A. Bursor Bursor & Fisher, P.A. 888 Seventh Avenue New York, NY 10019 scott@bursor.com	Patrick M. McCarthy Howard & Howard 2950 S. State Street, Suite 360 Ann Arbor, MI 48104 (734) 761-5957 (fax) PMcCarthy@HowardandHoward.com Counsel for NSF International AuthenTechnologies
--	--

☒ (VIA E-MAIL OR ELECTRONIC TRANSMISSION) Pursuant to agreement of the parties to accept service by e-mail or electronic transmission, I caused the document(s) to be sent to the person(s) at the e-mail address(es) listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on December 1, 2017 at Los Angeles, California.

/s/ Jennifer Polzin
Jennifer Polzin